

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers</b>	)	<b>CC Docket No. 01-338</b>
	)	
<b>Implementation of the Local Competition Provisions of the Telecommunications Act of 1996</b>	)	<b>CC Docket No. 96-98</b>
	)	
<b>Deployment of Wireline Services Offering Advanced Telecommunications Capability</b>	)	<b>CC Docket No. 98-147</b>
	)	

**DECLARATION OF ROBERT A. CURTIS  
ON BEHALF OF Z-TEL COMMUNICATIONS, INC.**

I, Robert A. Curtis, do hereby declare:

1. I am employed as Senior Vice President -- Strategic Planning of Z-Tel Communications, Inc. ("Z-Tel"). I also serve as President of Z-Tel Network Services, Inc. My business address is 601 South Harbour Island Boulevard, Tampa, Florida 33602.
2. I have served as Senior Vice President -- Strategic Planning since July 1999 and President, Z-Tel Network Services, Inc. since January 2001. From May 1998 to June 1999, I served as Vice President -- Business Development and Legal Affairs. Prior to joining Z-Tel in 1998, I worked as an attorney at the Houston office of Fulbright & Jaworski LLP, where I specialized in antitrust and complex federal litigation. I am a graduate of the Duke University School of Law. In addition, I received a B.A. in Philosophy from Trinity University and a Doctor of Philosophy (D. Phil) from the University of Oxford (England).

3. This declaration provides an overview of Z-Tel's service offerings and describes how Z-Tel has invested substantially over \$100 million dollars in developing innovative dial tone services, which Z-Tel presently deploys to over 250,000 consumers in 37 states using the unbundled network element platform, or "UNE-P." The availability of the UNE-P has enabled Z-Tel to invest its money in developing new and innovative software-based, dial-tone products, rather than in replicating the Public Switch Telephone Network ("PSTN") and utilizing related inefficient manual processes, such as hot cuts. In addition, I demonstrate that Z-Tel's innovative UNE-P offerings have provoked competitive responses from the Bell operating companies ("BOCs"), such as Verizon. In my view, a BOC response to a Z-Tel product demonstrates the real competition that results from Z-Tel's UNE-P-based offerings, and underscores the consumer benefit obtained from UNE-P-based competition.

## **II. Z-TEL IS A SUCCESS STORY OF THE 1996 TELECOMMUNICATIONS ACT**

4. Z-Tel was founded in January of 1998 with one overarching purpose: to bring the flexibility and functionality of the Internet to traditional telephone service. Since its founding, Z-Tel has invested over \$100 million in software and product development towards achieving this vision. At present, Z-Tel offers three primary consumer products: Z-LineHOME, Z-LineBUSINESS, and Z-LineCOMPANION.

5. Z-LineHOME is Z-Tel's flagship residential product, which consists of a bundled package of local, long distance, and enhanced services, including voicemail, caller ID, call waiting, "follow me," and Internet features and functions. Using these features, consumers with Z-LineHOME can, for example, check their home voicemail box, or change how calls to their home telephone number are routed over the Internet. In addition, Z-LineHOME has a "member-

to-member” capability that permits Z-LineHOME customers to call one another anywhere in the nation without incurring long distance charges. As noted, Z-Tel provides the local exchange portion of its bundled offering through the UNE-P. Z-Tel self-provisions the long distance and enhanced services portions of its bundled product. Z-Tel first began providing a UNE-P-based residential offering in New York during the summer of 1999, and since that time, Z-Tel has expanded the availability of its residential service offering to a total of 37 states.

6. Z-Tel recently introduced in Illinois “Z-LineBUSINESS,” which is designed to provide small businesses with the “intelligent dial-tone” services generally only available to large business. Z-Tel was able to launch its mass-market small business product in Illinois because, under state law, the UNE-P is available on an unrestricted basis. Z-Tel is committed to deploying Z-LineBUSINESS in other states where high regulatory certainty exists for the UNE-P. For example, as a result of settlement negotiations conducted by the New York Public Service Commission, Verizon has committed to making UNE-P widely available throughout New York. Indeed, the only restriction on UNE-P covers businesses with over 18 lines in about 30 central offices in Manhattan. Under the New York rule, Z-Tel will have the ability to roll out its mass-market small business product, and Z-Tel fully expects to provide similar mass-market offerings in as many states as possible.

7. “Z-LineCOMPANION” makes communications more portable by bringing the power of Z-Line to Palm Pilot VII and other personal digital assistants. With the advancing functionality of Z-LineCOMPANION, Z-Tel intends to remain on the forefront of innovation in the dynamic field of telecommunications. Indeed, Z-Tel fully intends to become the nation’s leading integrated communications provider by constantly reaching for new ways to improve telephone-

based communication. For example, Z-Tel is currently developing voice recognition technology to enable consumers to make phone calls, book airline flights, check their stocks and more.

8. At bottom, Z-Tel's fundamental business goal is to provide innovative bundled packages of local, long distance, and enhanced services to as many residential and small business customers in as many states as possible. Z-Tel has gone a long way in achieving this vision since its founding in 1998, and the availability of the UNE-P has allowed Z-Tel to focus its energy and expertise on innovating, rather than on replicating the PSTN.

### **III. Z-TEL'S INNOVATIVE, UNE-P-BASED OFFERINGS HAVE PROVOKED COMPETITIVE RESPONSES FROM BELL COMPANIES, SUCH AS VERIZON**

9. The Bell companies often knock UNE-P as "sham resale," and criticize UNE-P as failing to offer "real" competition. Warning to the Commission: BOC complaints about an entry strategy should serve to highlight the competitive merit and success of the entry strategy. This is absolutely the case with the UNE-P. Of course, the BOCs would love to force competitors to spend all of their resources replicating the PSTN, because they know that such an entry strategy would be cost prohibitive.

10. Moreover, although the Commission sometimes seems to assume that "facilities-based" competition and innovation go hand-in-hand, that is not necessarily the case. Building network facilities that merely replicate existing BOC facilities (like local TDM switching) actually inhibits innovation. Carriers have limited resources to deploy. With those limited resources, they can *either* build redundant, duplicative networks, *or* they can use existing BOC UNEs – as envisioned by the Telecommunications Act of 1996 – and spend their money developing innovations *on top* of that network. Z-Tel has taken the latter course.

11. One basic fact must not be overlooked: The PSTN was bought and paid for by the rate payer at absolutely no risk to the integrated Bell system, which operated under a system of rate-of-return regulation for nearly 100 years. Over that period, for every \$1.00 Bell spent -- good, bad, or otherwise -- Bell collected \$1.15 or thereabouts from the rate payers. The more Bell spent -- good, bad, or otherwise -- the more Bell collected.

12. After inheriting the PSTN through their legacy position as monopoly providers, the BOCs now seek to limit -- if not preclude all together -- the ability of competitors to utilize the PSTN at cost-based rates (statutory obligations notwithstanding). This is not surprising, as the BOCs full-well know that competitors simply cannot compete against their inherited, ubiquitous network.

13. But here is what the BOCs won't say about the UNE-P -- UNE-P promotes innovation along all non-PSTN fronts (*e.g.*, packet networks, "vertical features," and other value-added services such as voicemail and unified messaging), which account for a substantial portion of new telecommunications investment, and an even greater proportion of innovative telecommunications investment.

14. UNE-P has resulted in innovation well beyond the mere replication of existing incumbent services. Indeed, far from "reselling" existing voice services, UNE-P carriers offer innovative competitive alternatives to the plain old telephone services provided by the incumbents. Moreover, market evidence demonstrates that the BOCs are copying the innovative offerings first provided by UNE-P carriers -- not the other way around, as the BOCs would have the Commission believe.

15. The UNE-P-based competition brought by Z-Tel to the New York mass market provides two tremendous examples. First, in June 1999, Z-Tel began marketing a feature-rich, flat-rated

local service with a Z-Tel-designed, broad calling area bundled with long distance service for just under \$50.00. At that time, Verizon offered only message-rated local calling service in New York with very small calling areas. At least in part in response to Z-Tel's offering, Verizon's now deploys a "Premium Local Package," which offers "unlimited service within [a] Home Region, unlimited local directory assistance, plus [the] choice of four or more" vertical features for about \$50.00.<sup>1</sup>

16. Second, Z-Tel's integrated offering in New York has always included a "communications manager," which unifies voicemail and email, and also provides "follow-me" functionality. On September 28, 2001, Verizon announced the introduction of the "Verizon Unified Communications Service," which Verizon touts as an "innovative offering" that "enables customers to set up a virtual communications hub in minutes, accessible from any location, providing access to voice mail, e-mail, faxes and common files."<sup>2</sup> Z-Tel rolled out this "innovative" offering over two years before Verizon though a combination of Z-Tel's facilities and UNE-P.

17. A third example comes from Illinois, where Z-Tel offers both its residential and small business packages. There, in an aggressive "winback" campaign, SBC is now bundling free "Privacy Manager" service with its voice services. If a customer tries to migrate back to a competitor, they must give up their SBC Privacy Manger service, which is an SBC Advanced Intelligent Network ("AIN") service. Whether SBC ever would have deployed this AIN service without competition from innovative companies like Z-Tel is extremely unlikely. In the face of

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<sup>1</sup> See, [www.verizon.com](http://www.verizon.com), Product Description, Premium Local Calling Package - Unlimited.

<sup>2</sup> News Release, Unified Communications Service Available to Displaced New York City Businesses and Consumers (Sep. 28, 2001), available at [www.verizon.com](http://www.verizon.com).

UNE-P competition, SBC clearly is attempting to deploy a new and innovative offering in an effort to winback and retain consumers.

18. The fundamental point is that UNE-P enables competitors to invest in and introduce new and innovative services by freeing competitors from replicating the PSTN. Moreover, the new and innovative services have clearly produced competitive responses by the BOCs in terms of service offerings and price, all of which benefits consumers. Competition is about benefiting consumers with innovative offerings and better prices, not about replicating an existing resource, like the PSTN -- a resource already bought and paid for by consumers.

**I declare under penalty of perjury that the foregoing is true and correct.**

**Executed on April 5, 2002 by:**

A handwritten signature in black ink, appearing to read "RA Curtis", written over a horizontal line.

Robert A. Curtis